

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20/04/2004

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THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

W.P.No.760 of 2002

and

W.P.M.P.No.1117 of 2002

S.Sivalinga .. Petitioner

-Vs-

1. The Chief Educational Officer
Erode District
Erode.

2. The Director of School Education
College Road
Nungambakkam
Chennai-34.

3. The District Backward Class
Welfare Officer
Erode.

4. The State of Tamil Nadu rep. by
The Secretary to Government
Education Department
Fort St. George
Chennai-600 009. .. Respondents

Writ petition filed under Article 226 of the Constitution of India
praying for the issue of a writ of Mandamus directing the first respondent to
appoint the petitioner as a Secondary Grade School Teacher with retrospective
effect from 1st August 1997 and grant back-wages with attendant benefits and
reckon the date of appointment notionally as 1st August 1997 and award 24%
interest on the back-wages and award costs.

For petitioner : Mr.R.Kaaruppan

For respondents : Mr.M.Hidayathulla Khan
Government Advocate

:ORDER

The petitioner seeks for the issue of a writ of Mandamus directing the first respondent to appoint the petitioner as a Secondary Grade School Teacher with retrospective effect from 1st August 1997 and grant back-wages with attendant benefits by reckoning the date of appointment notionally as 1st August 1997 and also award 24% interest on the back-wages apart from costs.

2. The petitioner is stated to be a person belonging to Adi Dravidar community hailing from a poor family. It is stated that surmounting all the handicaps, he was able to get himself qualified as B.A., B. Ed. in the year 1987. It is also stated that he passed all the academic courses up to B.Ed. in Kannada medium.

3. The petitioner got his name registered with the employment exchange as from 13.7.1987 and got it re-registered in the year 19 89. It is stated that he got an opportunity to be considered for appointment as a Secondary Grade Teacher only on 30.4.1997. However, that opportunity did not fructify into an appointment, since, by a communication dated 3.11.1997, the petitioner was informed that since there were Secondary Grade Teachers in Kannada medium available for being appointed, the petitioner, who is qualified for the post of Graduate Teacher, could not be considered for appointment. Then, again, in the year 2000, the petitioner was called upon to attend an interview for the post of Assistant Warden-cum-Tutor by the third respondent. The petitioner has stated that though he attended the interview and his name was included in the waiting list, he did not get that appointment also. Subsequently, on 8.3.2001, there was another call for an interview issued to the petitioner. Here again, by a communication dated 3.9.2001, the said offer was also turned down on the ground that qualified Secondary Grade Teachers were available and that there was no communication from the Government to consider the appointment of the Graduate Teachers in the place of Secondary Grade Teachers' post. It was in these circumstances, the petitioner has come forward with the present writ petition with a prayer mentioned above.

4. Mr.R.Kaaruppan, learned counsel appearing for the petitioner, vehemently contended that right from the year 1987, the petitioner, belonging to a down-trodden community, who was able to acquire the necessary qualifications with very great efforts, was not being considered for appointment in any of the posts for which he was even issued with some call letters.

5. However much one could sympathise with the petitioner's grievances stated to have been undergone by him after getting qualified, from the year 1987, on a perusal of the relevant Rules providing for the scope of appointment to the post of Secondary Grade Teachers, it will have to be stated that when the Rules prescribe specific qualifications for different posts, it would be highly impossible for this Court to grant any relief as prayed for by the petitioner, ignoring the Rules.

6. As far as the post aspired for by the petitioner, namely, Secondary Grade Teacher for which post he was twice issued call letters, the Rules prescribe the qualifications, namely S.S.L.C. with T.S.L.C. of

Secondary Grade or its equivalent. The qualification acquired by the petitioner, namely, B.A., B.Ed., is the qualification meant for the post of B.T. Assistant. When such specific qualifications have been prescribed for different posts, it would be futile on the part of the petitioner to ignore such statutory Rules and consider the grant of a relief in favour of the petitioner, simply because, to the knowledge of the petitioner, persons with the petitioner's qualifications came to be appointed in the lesser post as Secondary Grade Teachers. Even if any such appointments had been made, it cannot be held that such appointments made contrary to the Rules could be relied upon by the petitioner for giving any such direction in the case of the petitioner. Therefore, I am unable to countenance any such submission made on behalf of the petitioner. However, it will have to be stated that when the petitioner, who belongs to a down-trodden community, who was able to acquire the required qualification for being considered for appointment in a teaching post, and in the case of the petitioner his qualification could be considered for appointment to the post of B.T. Assistant and such qualification having been acquired by the petitioner as long back as in the year 1987 and that he also got himself registered with the employment exchange immediately thereafter, in the fitness of things, the petitioner's case should be considered at least for any future appointment with some priority attached to his claim. At best, the respondents can only be directed to consider the petitioner's claim for the post of B.T. Assistant in any future vacancy by giving utmost priority, in order to render justice to a candidate who belongs to Adi-Dravidar Community and who is stated to have acquired the necessary qualification, irrespective of his family backwardness and financial disability.

With that view of the matter, this writ petition is disposed of with a direction to the respondents to consider the petitioner's claim for the post of B.T. Assistant in any future vacancy by giving a special priority in any

one of such posts arising in the future years and if any age relaxation is to be granted, the petitioner shall be granted such age relaxation also. No costs. Consequently, W.P.M.P. No.111 7 of 2002 is closed.

Index: Yes

Internet: Yes

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